

HOUSE BILL No. 1212

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-9-4-17; IC 20-26-4-2.5.

Synopsis: Nonpartisan school board elections. Provides standards for election of the members of the governing body of a school corporation on a nonpartisan basis. Provides that a candidate who violates the standards and is elected may be removed from office. Provides that a political party may not directly or indirectly campaign for or against a candidate for election to the governing body. Provides that a political party that violates this prohibition is subject to a civil penalty.

Effective: July 1, 2009.

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January 13, 2009, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1212

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-9-4-17 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) In addition to any other
3 penalty imposed, a person who does any of the following is subject to
4 a civil penalty under this section:

5 (1) Fails to file with a county election board a report in the
6 manner required under IC 3-9-5.

7 (2) Fails to file a statement of organization required under
8 IC 3-9-1.

9 (3) Is a committee or a member of a committee who disburses or
10 expends money or other property for any political purpose before
11 the money or other property has passed through the hands of the
12 treasurer of the committee.

13 (4) Makes a contribution other than to a committee subject to this
14 article or to a person authorized by law or a committee to receive
15 contributions in the committee's behalf.

16 (5) Is a corporation or labor organization that exceeds any of the
17 limitations on contributions prescribed by IC 3-9-2-4.



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- 1 (6) Makes a contribution in the name of another person.
 2 (7) Accepts a contribution made by one (1) person in the name of
 3 another person.
 4 (8) Is not the treasurer of a committee subject to this article, and
 5 pays any expenses of an election or a caucus except as authorized
 6 by this article.
 7 (9) Commingles the funds of a committee with the personal funds
 8 of an officer, a member, or an associate of the committee.
 9 (10) Wrongfully uses campaign contributions in violation of
 10 IC 3-9-3-4.
 11 (11) Fails to designate a contribution as required by IC 3-9-2-5(c).
 12 (12) Violates IC 3-9-3-5.
 13 (13) Serves as a treasurer of a committee in violation of any of the
 14 following:
 15 (A) IC 3-9-1-13(1).
 16 (B) IC 3-9-1-13(2).
 17 (C) IC 3-9-1-18.
 18 **(14) Violates IC 20-26-4-2.5(e).**
 19 (b) This subsection applies to a person who is subject to a civil
 20 penalty under subsection (a)(1) or (a)(2) for filing a defective report or
 21 statement. If the county election board determines that a person failed
 22 to file the report or a statement of organization not later than noon five
 23 (5) days after being given notice under section 14 of this chapter, the
 24 county election board may assess a civil penalty. The penalty is ten
 25 dollars (\$10) for each day the report is late after the expiration of the
 26 five (5) day period, not to exceed one hundred dollars (\$100) plus any
 27 investigative costs incurred and documented by the board. The civil
 28 penalty limit under this subsection applies to each report separately.
 29 (c) This subsection applies to a person who is subject to a civil
 30 penalty under subsection (a)(1) or (a)(2) for a delinquent report or
 31 statement. If the county election board determines that a person failed
 32 to file the report or statement of organization by the deadline prescribed
 33 under this article, the board shall assess a civil penalty. The penalty is
 34 fifty dollars (\$50) for each day the report is late, with the afternoon of
 35 the final date for filing the report or statement being calculated as the
 36 first day. The civil penalty under this subsection may not exceed one
 37 thousand dollars (\$1,000) plus any investigative costs incurred and
 38 documented by the board. The civil penalty limit under this subsection
 39 applies to each report separately.
 40 (d) This subsection applies to a person who is subject to a civil
 41 penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or
 42 (a)(10). If the county election board determines that a person is subject

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to a civil penalty under subsection (a), the board may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the board.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the county election board determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the board shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the board:

- (1) Two (2) times the amount of the contributions undesignated.
- (2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has violated IC 3-9-3-5, the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(13), the board may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the board.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the county election board determines that a person has violated IC 20-26-4-2.5(e), the board may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the board.

(j) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the

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funds appropriated for the administration of this article.

~~(j)~~ **(k)** Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

~~(k)~~ **(l)** Proceedings of the county election board under this section are subject to IC 4-21.5.

SECTION 2. IC 20-26-4-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 2.5. (a) This section applies to a candidate for election to the governing body on a nonpartisan basis.**

(b) A candidate for election to the governing body may not do any of the following:

(1) Seek the endorsement or assistance of a political party in the candidate's election to the governing body.

(2) State in any campaign communications that the candidate is endorsed by a political party, an individual who holds a public office, or an individual seeking election to a public office.

(3) Solicit campaign contributions from a political party, an individual who holds a public office, or an individual seeking election to a public office. A candidate for election to the governing body who receives a contribution from a political party, an individual who holds a public office, or an individual seeking election to a public office shall return the contribution not later than five (5) business days after receiving the contribution.

(c) Subsection (b) does not prohibit a candidate for election to the governing body from doing any of the following:

(1) Seeking the endorsement or assistance of another candidate for election to the governing body.

(2) Stating in any campaign communications that the candidate is endorsed by another candidate for election to the governing body.

(3) Soliciting campaign contributions from another candidate for election to the governing body.

(d) A candidate for the governing body who:

(1) violates subsection (b); and

(2) is elected;

may be removed from office under IC 34-17.

(e) A political party may not directly or indirectly campaign for or against a candidate for election to the governing body. A political party that violates this subsection is subject to a civil penalty under IC 3-9-4-17.

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